

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BROOKE ANNA MARIE
MARTIN, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CATHERINE FITZGERALD,

Respondent-Appellant,

and

JESSE MARTIN,

Respondent.

UNPUBLISHED

January 28, 2010

No. 293438

Bay Circuit Court

Family Division

LC No. 08-010112-NA

Before: Donofrio, P.J., and Meter and Murray, JJ.

PER CURIAM.

Respondent Catherine Fitzgerald appeals as of right from the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(ii), (c)(i), (g), and (j). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). The trial court's decision is reviewed for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5).

The trial court did not clearly err when it terminated respondent's parental rights. The minor child was brought into care because respondent left her alone in a locked bedroom for a short period one evening while she was out socializing. This was after respondent and the minor child had received a myriad of services from petitioner for 16 months in response to

investigations that substantiated physical abuse of the minor child by a man respondent had met on a dating website. After knowing the man for a short period, respondent allowed the man to be alone with the minor child while respondent went out, and the minor child was burned on the top of her feet by a cigarette. Even after this occurrence, respondent allowed the man to move in with her, and he bit the minor child.

After the initial petition was filed, the trial court ordered respondent to engage in Dialectic Behavior Therapy (DBT) to address her borderline personality disorder. Respondent argues that petitioner did not provide respondent with a cohesive plan to address her borderline personality disorder. The evidence does not support this claim.

Respondent's therapist was concerned about respondent's commitment to address her problems and explained to respondent that her commitment to individual therapy was required for her acceptance in, and completion of, the DBT program. For the first three months, respondent was not compliant with her individual therapy. In the second review period, respondent attended individual therapy, but her therapist did not believe that she had the requisite commitment and was concerned that respondent's participation without the requisite commitment would detrimentally affect other individuals in the program. After eight months of individual therapy, respondent was accepted into the DBT program, not because she showed the necessary commitment but because the team was aware that this was a requirement ordered by the trial court in order to regain custody of her minor child. Respondent made "slight progress" after completing the first eight weeks of DBT, mostly attributable to her attendance. The DBT program was generally an 18-month to two-year program.

Respondent was initially allowed visitation with the child in her home, with a parent aide present, but the visitation was moved back to "supervised outside of the home," because there were too many other people in respondent's home, including individuals who had a history with Child Protective Services. Respondent had been ordered to comply with Work First but was suspended from the program because she did not comply with its requirements. Respondent was working for a friend, earning \$200 a month.

The trial court did not err in finding that the grounds in MCL 712A.19b(3)(b)(ii), (c)(i), (g), and (j) were established by clear and convincing evidence. The minor child was physically abused by respondent's friend, and respondent failed to protect the minor child, even after she had received cigarette burns on the top of her feet while in his care. Respondent continued to associate with individuals who had a history with Child Protective Services, and she did not seem to benefit from services provided to her. She also failed to appropriately address her issues with borderline personality disorder in the DBT program; failed to show a commitment to make the appropriate changes; continued a chaotic lifestyle, particularly with regard to her choices of friends; and failed to make the minor child a priority.

Furthermore, the trial court did not err in its best-interests determination. Although the evidence showed the minor child appeared to be somewhat bonded with respondent, the minor child's need to be made a priority, as well as her need for stability and permanence, outweighed this bond in light of the minor child's young age and her fragile mental health.

Affirmed.

/s/ Pat M. Donofrio

/s/ Patrick M. Meter

/s/ Christopher M. Murray